

### **REMARKS**

Reconsideration of the application in view of the above amendments and the following remarks is respectfully requested.

Claims 1-19 are pending. Claims 1, 15, and 16 have been amended. No new matter is added.

Applicants appreciatively acknowledge the Examiner's indication that claims 13 and 14 contain allowable subject matter and would be allowed if rewritten in independent form. However, Applicants respectfully submit that in view of the above amendments and the following remarks, all claims are in condition for allowance.

Applicants acknowledge the courtesy and effort extended by the Examiner in conducting a telephonic Examiner Interview with Applicants' representative, Richard J. Katz, on November 19, 2008. During the Interview the rejection of claims 1, 15 and 16 under 35 U.S.C. § 112, first paragraph was discussed.

Applicants appreciatively acknowledge the Examiner's indication in the October 28, 2008 Advisory Action that Applicants' Reply filed October 8, 2008 has overcome the rejections under 35 U.S.C. § 103(a).

### **Claim Rejection Under 35 U.S.C. § 112**

Claims 1, 15 and 16 stand rejected under 35 U.S.C § 112, first paragraph for failing to comply with the written description requirement.

Amended claim 1 now recites the step of releasing nitrogen from a second nitride semiconductor epitaxial layer "wherein the second nitride semiconductor epitaxial layer releases nitrogen when its temperature reaches a third temperature higher than the second temperature, and

wherein the first nitride semiconductor epitaxial layer and the third nitride semiconductor epitaxial layer retain their respective nitrogen when the second nitride semiconductor epitaxial layer reaches the third temperature.” Amended independent claims 15 and 16 now recite similar subject matter.

Support for the amendment to claims 1, 15 and 16 can be found in the Specification, at least at page 8, line 11 through page 9, line 6. In particular, at least the cited portion of the Specification provides support for heating multiple nitride semiconductor epitaxial layers to a temperature, where one layer releases its nitrogen and the remaining layers retain their nitrogen.

Reconsideration and withdrawal of the rejection of claims 1, 15 and 16 under 35 U.S.C. § 112, first paragraph is respectfully requested.

**CONCLUSION**

Each and every point raised in the Final Office Action mailed September 8, 2008, and the Advisory Action mailed October 28, 2008, has been addressed on the basis of the above amendments and/ or remarks. In view of the foregoing it is believed that claims 1-19 are in condition for allowance and it is respectfully requested that the application be reconsidered and that all pending claims be allowed and the case passed to issue.

If there are any other issues remaining which the Examiner believes could be resolved through a Supplemental Response or an Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned at the telephone number indicated below.

Dated: December 8, 2008

Respectfully submitted,

By 

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